

# **Simultaneous performance of function of statutory body of capital company and employment relationship**

## **Abstract**

The topic of this rigorosum thesis is the issue of prohibiting performance of a function of the statutory body of a capital company while simultaneously having an employment relationship with that same company, which was inferred by judicature in the early 90s of the last century. However, despite this prohibition, the simultaneous performance of function of the statutory body and employment relationship is common practice in the Czech Republic. In fact, it provides this statutory body or its member a protection, which otherwise belongs by law only to employees. However, as a follow-up to the current Supreme Court decisions, there have appeared some opinions that judicature has finally resolved this issue of simultaneous performance. So, the aim of this rigorosum thesis is to appraise whether we can consider this issue as resolved or not and what new practical problems this new Supreme Court's interpretation causes.

This rigorosum thesis is divided into eight main chapters. The first one and second ones are dedicated to the theoretical basis and basic characteristics of the dependent work and the performance of a function of the statutory body. The third chapter is dedicated to comparison of these two positions and their rights and obligations. The progress of the legislation and the judicature is described in following two chapters. Possible practical problems following from actual Supreme Court's decisions with recommendation for their resolution are introduced in chapter six. The next chapter contains comparison of legislation and judicature related to this issue of the Federal Republic of Germany and the Slovak Republic and introduction of the relevant decisions of the Court of Justice of the EU. The last chapter is dedicated to suggestion of required legislature's changes.

The conclusion of this rigorosum thesis is that, in the light of the latest Supreme Court's decisions, we can not consider this issue to be resolved. The Supreme Court's interpretation actually causes other new interpretative problems and statutory body's and company's legal uncertainty. Furthermore, this interpretation can not even be applied to many cases.

## **Key words:**

simultaneous performance of function, statutory body, employment relationship